

PLAINTIFF'S EXHIBIT S

1 IN THE CIRCUIT COURT OF COOK COUNTY
2 COUNTY DEPARTMENT-CRIMINAL DIVISION

3 THE PEOPLE OF THE
4 STATE OF ILLINOIS,

5 Plaintiff,

6 -vs-

7 LATHIERIAL BOYD,

8 Defendant.

Case No. 90-8602

Charge: Murder

9 BENCH TRIAL

10 REPORT OF PROCEEDINGS had in the above-
11 entitled cause, before the HON. SHELVIN JINGEL,
12 Judge of said Court, on the 16th day of October,
13 A.D., 1990.

14 APPEARANCES:

15 HON. CECIL A. PARTEE,
16 Acting State's Attorney of Cook County, 1991
17 MS. LORI LEVIN, and
18 MR. JAMES BAILEY,
19 Assistant State's Attorneys,
20 Appeared for the Plaintiff;

21 MR. EMORY TATE,
22 Appeared for the Defendant.

1 RICKY WARNER,
2 called as a witness on behalf of the State, having
3 been first duly sworn, was examined and testified
4 as follows:

5 DIRECT EXAMINATION

6 BY

7 MS. LEVIN:

8 MS. LEVIN: May I proceed, Your Honor?

9 THE COURT: Please.

10 MR. TATE: Motion to exclude.

11 THE COURT: All right, there is an on-going
12 motion to exclude witnesses made.

13 Now, is there anybody in here who is a
14 witness?

15 MS. LEVIN: Judge, there are two people who are
16 witnesses and they have already testified, and we
17 are not anticipating recalling them.

18 MR. TATE: And what are their names, please?

19 MS. LEVIN: Mr. Warner and Miss Fleming.

20 MR. TATE: There is an outside possibility that
21 I may call them at some point if it is necessary,
22 so I would ask they be excluded.

23 MS. LEVIN: Judge, I --

24 THE COURT: Which one? 152

1 Q (Continuing by Ms. Levin) After I were
2 shot, what did you see the Defendant do?

3 A He ran.

4 Q Where did he run?

5 A Across the street. Across the street.

6 Q Then what happened?

7 A He jumped in a car.

8 Q Do you remember what kind of a car?

9 A I think it was -- I think it was white.

10 MR. TATE: May I see that?

11 MS. LEVIN: I am sorry. I thought you had seen
12 this before.

13 Did you have any guns on you that day?

14 THE WITNESS: No. No. I never carry. No. I
15 never carry.

16 MR. TATE: Move to strike the last part of the
17 answer.

18 THE WITNESS: No.

19 THE COURT: Overruled.

20 Q (Continuing by Ms. Levin) Did you in any
21 way threaten the Defendant?

22 A No.

23 Q Did you say anything to him before he shot
24 you?

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1 she wants to leave at 3:00.

2 THE COURT: All right. Back on the record.

3 Counsel, proceed.

4 Are you ready?

5 Q (Continuing by Mr. Tate) Besides Ricky,
6 besides the light that you mentioned at the parking
7 entrance, were there any other lights that you
8 observed?

9 A Yes, sir. The parking sign. That's where
10 I was.

11 Q You were near the parking sign?

12 A Yes, sir.

13 Q How near were you to the parking sign?

14 A Pretty close. Pretty close.

15 Q Ten feet?

16 A I can't really tell. I was pretty close.

17 Q Besides your cousin, Mike Fleming, were
18 there anyone else on the street that you saw just
19 before you were shot?

20 A Three other guys. Three other guys.

21 Q Were these guys White or Black?

22 A White. White. They was White, sir.

23 Q And were you talking to these three other
24 guys?

1 Q And did you go in?

2 A No, I didn't 'cause he couldn't get in.

3 Q What time was this that he couldn't get in?

4 A It was about 11:00, 12:00. Or 12:00.

5 Q What time was it when you saw Rat shoot you?

6 A 2:00 o'clock maybe. I don't remember the
7 precise time, sir.

8 Q Did you have any marijuana in your posses-
9 sion that night, that morning?

10 A No.

11 Q Did you have any white powder in your posses-
12 sion that morning?

13 A No.

14 Q Did Mike Fleming have any white powder in his
15 possession that morning?

16 MS. LEVIN: Objection.

17 THE WITNESS: I don't remember.

18 THE COURT: Overruled.

19 THE WITNESS: I don't remember.

20 Q (Continuing by Mr. Tate) Well, that night
21 at 10:00 o'clock on Fulton and Kedzie, had you and
22 Mike mixed up some white powder at that address?

23 A No, sir.

24 Q You had not?

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1 A No, sir.

2 Q Well, you were -- you were at that address,
3 weren't you?

4 A Yes, sir.

5 Q And was that -- were you also in the
6 presence of Charise Parker, Mike's girlfriend?

7 A Yes. It's my auntie house.

8 Q Was that 3251 West Fulton?

9 A Yes, sir.

10 Q And you and Mike had been watching television,
11 is that right?

12 A Yes, sir.

13 Q And after watching television a while, you
14 started mixing up some -- pounding some pills into a
15 white powder, didn't you?

16 MS. LEVIN: Objection.

17 THE COURT: Sustained.

18 Counsel, this is outside the scope.

19 MR. TATE: I can connect it up, Your Honor.

20 THE COURT: How are you going to connect it up?

21 MR. TATE: Because it could be the fake marijuana
22 or fake cocaine that is already in the record.

23 THE COURT: I didn't hear anything about fake
24 cocaine; all I heard was about fake marijuana and I

1 don't see how the white powder or the marijuana --

2 THE WITNESS: Me neither.

3 THE COURT: So I will sustain the objection.

4 Proceed.

5 Q (Continuing by Mr. Tate) Ricky, you had
6 gotten into some trouble with three Black men for
7 selling them fake cocaine, hadn't you?

8 A No, sir.

9 MS. LEVIN: Objection.

10 THE COURT: Sustained.

11 MR. TATE: Just before this incident?

12 THE WITNESS: No, sir.

13 Q (Continuing by Mr. Tate) These men hadn't
14 threatened you to hurt you because of fake cocaine?

15 MS. LEVIN: Objection.

16 THE WITNESS: No, sir.

17 THE COURT: Sustain the objection.

18 Q (Continuing by Mr. Tate) Now, while you were
19 there trying to sell marijuana -- strike that.

20 How long had you been using that location to
21 sell marijuana?

22 MS. LEVIN: Objection.

23 THE COURT: Overruled.

24 Q (Continuing by Mr. Tate) How long?

1 answer. Please do not volunteer the answers; just answer
2 the question. If there's an objection, wait until you
3 hear a ruling from me. If I overrule the objection, then
4 you can answer. If I sustain the objection, then you
5 are not to answer.

6 MR. TATE: With the Court's indulgence.

7 THE COURT: Yes, sir.

8 Q (Continuing by Mr. Tate) Ricky?

9 A Yes, sir.

10 Q I show you again People's Exhibit Number 20,
11 this piece of paper, and ask you, what date did you
12 first see this piece of paper?

13 A The date he gave me.

14 Q Yes. What date was that?

15 A I don't remember the date, sir.

16 Q Do you remember the month?

17 A I don't remember the month.

18 Q Do you remember the year?

19 A Yes, sir.

20 Q What year was it?

21 A 1990.

22 Q Was it in the summertime or the wintertime?

23 A Summertime.

24 Q Was it in July, 1990?

44

1 A I don't remember.

2 Q Was it in May, 1990?

3 A Sir, I told you I don't remember. I know he
4 gave it to me when he was in his car.

5 Q Do you remember where it was that he gave it
6 to you?

7 A Yes.

8 Q Where?

9 A In back of his cousin house.

10 Q And what address is that, if you can remember.

11 A It's on -- it's on 15th and St. Charles, sir.

12 Q And who was present at the time he gave it
13 to you?

14 A His friend.

15 Q Anyone else present besides his friend?

16 A No, there wasn't.

17 Q Do you remember the day of the week that he
18 gave it to you?

19 A Yes.

20 Q What day of week was it?

21 A Day of week?

22 Was it Monday, Tuesday; or what day was it?

23 A I don't remember the day, sir.

24 Q Do you remember anyone else being present

1 at the time he gave it to you?

2 A No, sir.

3 Q What did he do? He just shoved this at you?
4 Did he say anything to you?

5 A I'm going to tell you, sir. He wrote the
6 amounts down there.

7 Q What did he say as he gave it to you?

8 MS. LEVIN: Objection.

9 THE COURT: Sustained. Let the witness finish
10 the answer.

11 Please proceed with the answer.

12 THE WITNESS: The amount and the money, yes, sir.
13 It's down there. His friend named Reggie, I met him.

14 Q (Continuing by Mr. Tate) Do you know who
15 wrote this?

16 A Rat.

17 Q Did you see him write this out?

18 A Sir, I was standing right by the car. I
19 couldn't do nothing but see it.

20 Q You said you owed Rat some money?

21 A Yes.

22 THE COURT: You have to repeat the answer. I am
23 sorry, Miss Reporter. Please read the question to the
24 witness.

46

1 A Yes, sir. He -- I seen him run up on me
2 and I turned around and looked.

3 Q Was that before the shot or after?

4 A It was before the shots, sir. That's when
5 he shot me and left me for dead. I'm paralyzed but
6 I ain't dead, sir.

7 Q At the time you saw Mr. Boyd, was he wearing
8 a hat?

9 A No, sir. I don't recall wearing a hat.

10 Q Was he wearing an overcoat?

11 A I don't think so. Yes, sir. I think so.

12 Q He was wearing an overcoat?

13 A I don't remember. I don't really remember
14 what he had on. I really don't remember what I had on,
15 sir.

16 MR. BAILEY: Judge, I think he is confused.
17 I think he is asking him --

18 THE COURT: Counsel, Counsel, I understand. If
19 there's an objection, object.

20 MS. LEVIN: Object.

21 THE COURT: I don't know what you're objecting to
22 now.

23 Proceed.

24 MR. TATE: Thank you. With the Court's indulgence?

1 MR. BAILEY: Judge, I apologize. The machine is a
2 little loud and I have trouble hearing you sometimes.

3 THE COURT: I will shout it out.

4 MR. BAILEY: Thank you, Judge.

5 Q (Continuing by Mr. Tate) When you say the
6 Defendant Rat jumped into a car, did you see him jump
7 into a car?

8 A No, sir.

9 Q You don't know if he got into a car or not,
10 do you, sir?

11 A Yeah, I know. It was like a white car.

12 Q You saw him get into a white car?

13 A Yes. A white car, sir.

14 Q After you were shot?

15 A I didn't black out, sir. I seen him run
16 off and I looked and seen the car. White. I think
17 the car was white, sir.

18 Q Did you talk to anybody from the State's
19 Attorney's Office today before you testified?

20 A No, sir. What? Yes.

21 Q You did talk with the State's Attorney
22 today before you started testifying?

23 A No, sir. I didn't talk to 'em.

24 Q Before today do you recall talking with the

1 State's Attorney?

2 A One time, sir, yes.

3 Q When was that that you can recall?

4 A A couple of weeks. I think so, sir; a couple
5 of weeks ago. Couple weeks.

6 Q And do you see that person you talked to in
7 the courtroom?

8 A Yes.

9 Q Would you point her out for the record?

10 A She is wearing red, sir.

11 MS. LEVIN: Judge, I guess he made an identification
12 of me.

13 THE COURT: For the record, Miss Levin.

14 Q (Continuing by Mr. Tate) Before that time
15 had you talked with her?

16 A Yes.

17 Q When was that, if you can recall?

18 A I don't remember.

19 Q Now, on March 9th, 1990, when you were
20 talking with Detective Zabelewski, did you tell him
21 to go and talk to your father, Mr. Warner?

22 A Yes, I did.

23 Q Did you tell him that your father would help
24 find the man that shot you?

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216

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1 A No.

2 Q What did you tell him?

3 A I told him Rat shot me. That's what I told
4 him. I told him the guy shot me.

5 Q Had you also told him that you didn't know
6 who shot you that day?

7 A No.

8 THE COURT: Counsel, that has been asked and
9 answered. I really -- I'm trying to go as long as
10 I can, but please, once a question has been asked and
11 answered, that's the end of it.

12 MR. TATE: Well, Your Honor, I was simply trying
13 to establish the continuity.

14 THE COURT: Well, you should have established
15 the continuity when you asked him that question and
16 it was answered. You should have gone on to say that
17 which -- the precursor of the question that comes
18 after that foundation.

19 MR. TATE: Very well, Your Honor.

20 THE COURT: Proceed.

21 Q (Continuing by Mr. Tate) Now, you testified,
22 Mr. Warner, that you heard shots at the time you were
23 shot. How many shots did you hear?

24 MS. LEVIN: Objection. That was not his testimony. 5

217

1 THE WITNESS: I heard shots before.

2 MS. LEVIN: Thank you.

3 THE COURT: Sustain the objection.

4 THE WITNESS: Yes. That was before I got shot,
5 sir.

6 Q (Continuing by Mr. Tate) You heard shots
7 before you got shot?

8 A Yes, sir.

9 THE COURT: Counsel, this is about the fourth time
10 you have asked that question. Please.

11 THE WITNESS: Yes, tell me. Tell me, please.

12 THE COURT: Please, Counsel.

13 THE WITNESS: Yes, please. Please.

14 THE COURT: Wait a minute, Mr. Warner. I am very
15 patient, but you can't go over the same territory
16 again and again.

17 MR. TATE: All right, Your Honor. I withdraw
18 the question.

19 THE COURT: It has been answered.

20 Q (Continuing by Mr. Tate) Now, before you
21 were shot, Mr. Warner--

22 A Yes, sir.

23 Q -- were you thrown out of the Wild Hair
24 Tavern on Clark Street?

218

60

1 MS. LEVIN: Objection.

2 THE COURT: Overruled.

3 THE WITNESS: No, I wasn't.

4 Q Continuing by Mr. Tate) Didn't the manager
5 of the Wild Hair Tavern tell you that you were selling
6 fake cocaine and that you couldn't come in there any
7 more?

8 MS. LEVIN: Objection.

9 THE COURT: Sustained.

10 THE WITNESS: No.

11 THE COURT: Sustain the objection.

12 Q (Continuing by Mr. Tate) Were you made aware
13 that some of your customers were out to hurt you because
14 of the fake cocaine?

15 MS. LEVIN: Objection.

16 Judge, I don't --

17 THE COURT: Sustained.

18 THE WITNESS: No, sir.

19 THE COURT: The objection was sustained.

20 MR. BAILEY: When the Judge says "sustained," --

21 THE COURT: The objection was sustained.

22 Mr. Bailey, your sole purpose is to hold that
23 microphone --

24 MR. BAILEY: Thank you, Judge.

61